THE HON'BLE SRI JUSTICE C.V. RAMULU

Friday, 30th June, 2006

W.P.No.29846 of 1997

Between:

N. Ramesh … Petitioner

and

Andhra Pradesh Cooperative
Tribunal, Hyderabad,
Rep. by its Registrar & others … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.29846 of 1997

ORAL ORDER:

This Writ Petition is filed seeking a Certiorari to call for the records relating to the Order dated 11-8-1997 passed by the 1st respondent in C.T.A.No.128 of 1996 confirming the order passed by the 2nd respondent in Claim No.245/1994-95, dated 16-10-1995 and to set aside the same.

It is very interesting to notice that the petitioner is an Agricultural Officer, DPAP, Piler, Chittoor district. During the year 1989-90, as per the policy of the Government for supply of inputs under the subsidy scheme for distributing to the farmers through cooperative societies, certain goods were placed at the disposal of the petitioner. It seems, the petitioner after distributing the pesticides to the farmers did not deposit the amounts. Therefore, the dispute was referred to the Arbitrator under Section 61(1)(d)(i) of the A.P. Cooperative Societies Act,1964 (for short 'the Act'). The petitioner has taken an objection that the provisions of Section 61(1)(d)(i) of the Act have no application at all and no enquiry can be conducted under that Section against him. In spite of that, enquiry was taken up and Orders were passed. Aggrieved by that, the petitioner filed C.T.A.No.128 of 1996 before the Cooperative Tribunal, Hyderabad. Even before the Tribunal, the petitioner has taken the very same objection stating that the authorities have no power to proceed against him under Section 61(1)(d)(i) of the

Act and he is not amenable to the jurisdiction of the respondents. However, the Tribunal dismissed the Appeal holding that it is a fact that there is no specific agreement between the petitioner and the society with regard to the transactions in question, but by virtue of the fact that the entire transaction had taken place for implementing the Government policy of aiding the farmers to give fillip to Rice-thrust and NODP programme by extending the subsidy with the help of cooperatives through the agency of Agriculture Department, it is not wrong to apply the arbitration proceedings in the instant case, considering the petitioner as an Agent under Section 61(1)© of the Act. It is unfortunate that such a finding was given by the Tribunal below. The provisions of Section 61 of the Act reads as under:

> "**61. Disputes which may be referred to the Registrar:-** (1) Notwithstanding anything in any law for the time being in force, if any dispute touching the constitution, management or the business of a society, other than a dispute regarding disciplinary action taken by the society or its committee against a paid employee of the society, arises—
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> (a) among members, past members and persons claiming through members, past members and deceased members; or
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> (b) between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or employee of the society; or
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> (c) between the society or its committee, and any past committee, any officer, agent or employee, or any past officer, past agent, or past employee or the nominee, heir or legal representative of any deceased officer, deceased agent or deceased employeeof the society; or
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> (d) between the society and any other society,
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> such dispute shall be referred to the Registrar for decision.
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> Explanation:-…….
>
> (2) to (4)……."

None of the provisions noted above are applicable to the facts of the present case. A Government employee in the rank of Agricultural Officer under whose supervision the fertilizers/pesticides were distributed cannot be said to be an Agent and, therefore, he is not

amenable to enquiry as contemplated under Section 61(1)(d)(i) of the Act. Such a concept is misconceived and absolutely, there is no power vested in the respondents to proceed against the petitioner under Section 61(1)(d)(i) of the Act. Therefore, the Orders passed by the 2nd respondent dated 16-10-1995 as confirmed by the appellate authority in C.T.A.No.128 of 1996, dated 11-8-1997 are liable to be set aside and are accordingly set aside.

Accordingly, the Writ Petition is allowed. No costs.

30-6-2006

prk